

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:20-CV-119-BO

DANTE ANTONIA MURPHY,)
Plaintiff,)
v.)
ROB ZAPPLE and JULIA OLSON-)
BOSEMAN,)
Defendants.)

ORDER

This cause comes before the Court on defendants' motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Plaintiff, who proceeds in this action *pro se*, opposes dismissal and seeks an opportunity to amend his complaint. Rule 15 of the Federal Rules of Civil Procedure directs that leave to amend a pleading should be freely given when justice so requires. Fed. R. Civ. P. 15(a)(2). Additionally, a party may amend his pleading once as a matter of course before the opposing party files a responsive pleading. *Id.* at 15(a)(1).

Defendants' Rule 12(b)(6) motion is not a responsive pleading, *Domino Sugar Corp. v. Sugar Workers Local Union 392 of United Food & Commercial Workers Int'l Union*, 10 F.3d 1064, 1068 n. 1 (4th Cir. 1993), and because plaintiff could amend his complaint without leave, the Court finds good cause to permit him to file an amended complaint. Plaintiff shall file his amended complaint not later than December 9, 2020. Defendants' motion to dismiss [DE 14] the original complaint is therefore denied.

SO ORDERED, this 8 day of December, 2020.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE